Exhibit 1

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

DOCKET NO. 00-03-19 DPUC REVIEW OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY'S STUDIES OF UNBUNDLED NETWORK ELEMENTS NON-RECURRING CHARGES

June 14, 2000

By the following Commissioners:

Jack R. Goldberg
Linda Kelly Arnold
Glenn Arthur

DRAFT DECISION

This draft Decision is being distributed to the parties in this proceeding for comment. The proposed Decision is not a final Decision of the Department. The Department will consider the parties' arguments and exceptions before reaching a final Decision. The final Decision may differ from the proposed Decision. Therefore, this draft Decision does not establish any precedent and does not necessarily represent the Department's final conclusion.

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DECISION

I. INTRODUCTION

A. SUMMARY

The Southern New England Telephone Company (Telco or Company) filed its proposed unbundled network elements (UNE) non-recurring cost (NRC) studies in this proceeding, that it alleges are in compliance with previous Department of Public Utility Control (Department) directives. The Telco also states that the costs included in its UNE study are attributable to the provision of the UNEs. The Telco also claims that the total service long run incremental cost (TSLRIC) costs are forward looking and that its study identifies the assumptions used and is verifiable. The Telco also argues that the 2% fallout rate ordered by the Department is too aggressive and should be changed.

Other participants in this docket do not support the Telco's cost studies. The Office of Consumer Counsel (OCC) claims, inter alia, that the Telco did not utilize the improvement assumptions ordered previously by the Department. The OCC also argues that the studies are verifiable and can not be duplicated by the other parties. OCC also argues that the studies performed by the subject matter experts (SME) are not adequately documented.

AT&T Communications of New England Inc. (AT&T), argues that the labor costs presented in the studies are overstated and fail to include productivity gains. AT&T also proposes that the Telco should offset inflation with those productivity gains. AT&T further states that the Telco did not make all the adjustments ordered by the Department in previous decisions, including the manner in which the Company applies the 2% fall out rate.

Covad Communications and DSLnet Communications LCC (collectively Covad/DSLnet) claims that the Telco should not be allowed to charge for loop conditioning unless such charges are set consistent with total element long run incremental cost (TELRIC) and Federal Communications Commission (FCC) rules. In the alternative, Covad/DSLnet argue that the Telco should not be permitted to charge for loop conditioning for loops of less than 18,000 feet. Covad/DSLnet also argue that the Telco should provide for multiloop conditioning and that the Telco has not provided for the least cost method. Finally, Covad/DSLnet argue that the Telco should provide loop-conditioning costs as a recurring rather than a non-recurring cost.

Rhythms Link, Inc. (Rhythms) also argues that the loop conditioning costs study be rejected and that the rates for loop conditioning should be reduced.

Worldcom, Inc. (WCI) states that the Telco studies are not in compliance with previous Department Decisions. WCI proposes that the Department adopt the analysis offered by its witness in lieu of the cost studies proffered by the Telco.

The Department has determined that the 2% fall out rate it has established is attainable and that the Telco shall apply it to all mechanized functions. Additionally the Department also orders that if the Telco attains a fall out rate of less than 2% that rate should be utilized in lieu of the 2% rate.

While denying the request for multiloop conditioning and accepts the Telco's loop conditioning costs, the Department will not permit the costs for reconditioning. Additionally, the Department will not change the loop conditioning costs to a recurring cost. Rather the Department has determined that the Telco should be able to recover costs as they are incurred.

Finally, the Department finds that the proposed cost studies comply with previous Department directives, are documented and reproducible. Accordingly, the UNE NRC studies are approved as amended in Section IV of this Decision.

B. BACKGROUND

By letter dated February 18, 2000, the Southern New England Telephone Company filed with the Department of Public Utility Control its proposed Unbundled Network Elements Non-Recurring Cost Studies (Application). According to the Telco, it is filing its proposed UNE NRC studies pursuant to the May 20, 1998 Decision in Docket No. 97-04-10 Application of the Southern New England Telephone Company for Approval of Total Service Long Run Incremental Cost Studies and Rates for Unbundled Network Elements, and the Department's January 5, 2000 Decision in Docket No. 98-09-01, DPUC Investigation of the Southern New England Telephone Company's UNE Non-Recurring Charges. Telco February 18, 2000 Letter to the Department, p. 1. This proceeding has been established by the Department to investigate the Telco's UNE NRC studies.

C. CONDUCT OF THE PROCEEDING

By Notice of Hearing dated April 13, 2000, public hearings in this matter were held on May 16, 2000 and May 17, 2000, at the offices of the Department, Ten Franklin Square, New Britain, Connecticut 06051. By Notice of Close of Hearing dated June 1, 2000, the hearings in this matter were closed.

The Department issued a draft Decision in this docket on June 14, 2000. All parties and intervenors were provided an opportunity to file written comments to and present oral argument on the draft Decision.

D. PARTIES AND INTERVENORS

The Department recognized the Southern New England Telephone Company, 310 Orange Street, New Haven, Connecticut 06510; Office of Consumer Counsel, Ten Franklin Square, New Britain, Connecticut 06051; AT&T Communications of New England, 32 Avenue of the Americas, New York, New York 10013; MCI WorldCom, Inc., 200 Park Avenue, New York, New York 10166; Cox Connecticut Telcom, LLC., 9 J.P. Murphy Highway, West Warwick, Rhode Island 02893-2381; New England Cable Television Association, 21 Oak Street, Suite 307, Hartford, Connecticut 06106; ACI Corporation, c/o Blumenfeld & Cohen, 1615 M. Street, N.W., Washington, D.C. 20036; CTC Communications Corporation, 360 Second Avenue, Waltham, Massachusetts

02154; Cablevision Lightpath Inc., 1111 Steward Avenue, Bethpage, New York 11714-3581; Connecticut Telephone & Communications Systems, 1271 South Broad Street, Wallingford, Connecticut 06492; Sprint Communications Company, L.P., 401 9th Street, N.W., Washington, D.C. 20004; Rhythms Links, Inc., c/o Tobin Carberry O'Malley Riley & Selinger, P.O. Box 58, New London, Connecticut 06320-0058; CTC Communications Corporation, 360 Second Avenue, Waltham, Massachusetts 02154; and Frontier Communications of the West, 180 South Clinton Avenue, Rochester, New York 14646 as parties to this proceedings. The Department also recognized the Connecticut Ad Hoc Telecommunications Users Group, Partner Communications, WilTel, Inc. and ZipCall Long Distance, Inc. as Intervenors to this proceeding.

II. APPLICANT'S EVIDENCE

The Telco has submitted proposed UNE NRC studies that it claims reflect a realistic view of the Company's prospective costs and are in compliance with the January 5, 2000 Decision in Docket No. 98-09-01, to reflect the application of the mandated 2% fallout factor to those activities completed by the Telco on a mechanized basis.[1] In light of previous Department Decisions addressing the Company's NRC studies, the Telco contends that it has taken great strides to address the Department's concerns. Specifically, the Telco addressed: (i) the need to maintain a relationship between direct costs and joint and common costs; (ii) providing documentation explaining the study methodology, assumptions and study model information; (iii) updating of study data to reflect the most current available study inputs; and (iv) improving its study process by utilizing SBC Communications, Inc.'s (SBC) costing methodology and models where appropriate. The Telco asserts that its cost studies continue to reflect specific costing methodologies as required by previous Department Decisions. Application, Exhibit 1, pp. 1 and 2.

The Telco states that all costs included in the UNE non-recurring studies are costs directly attributable to the provision of UNEs and that its Total Service Long Run Incremental Cost studies include only direct costs, and intentionally exclude allocations of overhead. The Telco also states that its UNE non-recurring cost submission was developed to recognize the appropriate cost relationship with the methodology utilized in developing its Joint and Common Cost Study (JCCS). Therefore, costs included in the UNE non-recurring cost studies are not accounted for in the JCCS and vice versa. According to the Telco, the studies, when considered together with the recurring UNE cost studies filed in Docket No. 00-01-02, Application of the Southern New England Telephone Company for Approval of Cost Studies for Unbundled Network Elements, account for combined, direct and shared, forward-looking costs of the Company in providing UNEs.

The Telco contends that it utilized several economic assumptions and principles in the non-recurring and JCCS consistent with SBC's and standard economic costing

[1] The Telco filed two cost studies. According to the Telco, the first cost study produced non-recurring costs that reflect its assessment of prospective system fallout for the Company. Fallout refers to those cases when a mechanized or automatic procedures used to process service orders fails and the process must be handled manually. The Telco's study is based on subject matter expert projections and/or actual sample data for fallout. Makarewicz Testimony, p. 6.

principles. For example, the study period is five years for both studies. The UNE non-recurring studies calculate forward-looking economic costs.[2] The Telco states that non-recurring costs can be volume-sensitive or volume-insensitive (fixed). Volume-sensitive non-recurring costs vary with the level of the direct activity generating the cost but are incurred only once, (i.e., at startup). These costs are usually directly assignable in that it is typically possible to identify the "cause" of that cost permitting the Telco to attribute all of the appropriate cost to the activity. In contrast, volume-insensitive non-recurring costs are those that are generated by an activity that do not vary with the level of the activity and can be incurred sporadically. Volume-insensitive costs are either incurred or avoided. These costs are incurred when the Telco elects to perform the activity and are avoided only when the Company ceases to perform the activity.

The Telco maintains that it utilized a straightforward and understandable process for developing its UNE costs and that the studies incorporate 1999 updates to the information used in its cost studies, which includes:

- Identification of forward-looking work activities. Product managers and network personnel assisted cost analysts in identifying required work activities and corresponding job titles;
- Improved documentation on forward-looking time estimates, including profiles on subject matter experts who provided the estimates;
- Forward-looking task occurrence and work group occurrence factors or probability of occurrence factors that reflect anticipated levels of mechanization and fallout;
- Updated labor rates;
- Updated inflation factors;
- Billing and Repair Database prospective information was available at this time. Even though the Telco incurs costs by performing these functions, no costs have been included since there was no forward looking cost data available.

Additionally, the Telco utilized inflation factors in the UNE non-recurring cost study to identify changes in costs that will occur during the study period. The inflation factor for expense is based on the Consumer Price Index (CPI) which the Telco used to ensure that its costs reflect the best forecast of future cost changes. The Telco also developed labor costs that were consistent with SBC's single methodology. According to the Telco, labor costs represent more than just wages or salaries. Rather, they represent the costs to the firm of consuming a particular labor resource and utilize past experience to estimate expected future costs. Application, Exhibit 1, pp. 2-5.

Moreover, the Telco asserts that the fundamental characteristic of all non-recurring TSLRIC costs is their forward-looking nature. The Telco maintains that the studies reflect a concerted effort by the Company to identify only those forward-looking work activities required to provide UNEs, along with their associated forward-looking time estimates. The studies use Task Occurrence Factors that reflect anticipated levels

[2] According to the Telco, economic costs are distinct from embedded accounting costs in that they are forward-looking and reflect only the cost of efficient, forward-looking production processes in use today or expected to be implemented within the study period. Application, Exhibit 1, p. 3.

of fallout or require manual intervention associated with the SBC and Telco ordering and provisioning processes. The Telco also claims that a UNE TSLRIC study intentionally excludes overhead costs since these costs cannot be causally attributed to a particular UNE. Overhead expense reductions that can be traced to the Company are accounted for in its JCCS.

The Telco maintains that its study identifies the assumptions and provides verifiable documentation and the data necessary so that it may be replicated by the parties. In addition, the Telco provided documentation to the parties on the cost models utilized and to the extent these models were PC-based, offered them copies. Application, Exhibit 1, pp. 6 and 7.

Finally, the Telco filed the results of another non-recurring cost study. The Telco explained that the above-noted cost studies produced non-recurring costs that reflect its assessment of prospective system fallout for the Telco. The second set of cost studies filed by the Telco are identical to those described above, except for the fallout factor. According to the Telco, the second set of studies complies with the Decision in Docket No. 98-09-01 and applies a 2% fallout factor to each mechanized work activity. The Telco argues that the application of a 2% fallout factor is overly aggressive and produces non-recurring cost results that substantially understate the Telco's measure of reasonable, forward-looking costs associated with provisioning UNEs. Makarewicz Testimony, pp. 6 and 7.

III. POSITIONS OF PARTIES

A. OFFICE OF CONSUMER COUNSEL

The Office of Consumer Counsel (OCC) argues that the Telco fails to document the forward-looking process improvement assumptions used in its NRC studies, despite Department directives. According to the OCC, the Telco's failure to document its NRC studies prevents their replication and verification. The OCC also argues that the Telco has failed to demonstrate the optimality of any assumed process improvements. Additionally, the Telco's subject matter expert (SME) estimates were subject to the approval of SBC cost analysts outside of Connecticut which went undocumented. As a result, the Department and the parties are unable to verify either the veracity of the proposed charges or the forward-looking nature of the study.

The OCC notes that the Department has repeatedly required the Telco to submit sufficient documentation so that every step of its cost study analysis can be replicated. Despite the fact that the Telco's NRC studies are the forward looking process improvement assumptions utilized by its SMEs, the OCC claims that the Telco does not identify or specify the forward-looking assumptions. The OCC also claims that the Telco failed to identify or document current task times, manual activities to be prospectively mechanized or productivity increases in forward-looking manual tasks. Finally, the Telco failed to demonstrate the optimality of the process improvements assumed by its SMEs. As a result of these fundamental failures, the Department and the parties must accept the Telco SME estimates without recourse to verification.

The OCC also asserts that not only did the Telco fail to identify and explain the forward-looking process improvement assumptions allegedly used by the SMEs, it did not include task time estimates for current operations. The OCC maintains that this omission precludes any verification that the Telco's "forward-looking" task times reflect the efficiency gains inherent in a forward-looking network or any quantification of those alleged gains.

Additionally, the OCC argues that the Telco did not provide a description of the manual tasks that it expects to mechanize, thereby preventing any assessment of the efficiencies that would be gained. Finally, with regard to currently manual activities expected to remain manual, the OCC notes that the Telco admitted that forward-looking productivity increases may or may not have been included in its SME estimates. The OCC states that absent documentation of assumed productivity increases, the Telco's NRC studies become a guessing game.

Moreover, the OCC argues that the Telco neglected to provide any analysis to demonstrate the optimality of its forward-looking improvements. According to the OCC, one of the fundamental principles of any network TSLRIC analysis is a demonstration of forward-looking efficiency. While acknowledging that the Telco's SMEs were asked to anticipate known process improvements within the study period and incorporate those efficiencies into their estimates, the OCC contends that the Company failed to demonstrate that any of the SME forward-looking and assumed process improvements provided optimal, least-cost solutions. In the opinion of the OCC, the Department must view the Telco's NRC studies with substantial skepticism.

Furthermore, the OCC argues that the Telco undermines the validity of its SME estimates because the Company failed to document any aspect of SBC's review of its SME estimates. Additionally, the OCC notes that the Telco failed to document the frequency with which SME estimates were conducted. The OCC assumes that nothing prevents SBC's cost analysts from altering their task time responses to fit an SBC corporate strategy designed to inflate prices for competitors. The OCC maintains that rather than the strategic revisions of SBC cost analysts, validation of forward looking task time estimates should be conducted by statistical means. OCC Brief, pp. 2-7; OCC Reply Brief, pp. 1 and 2.

The OCC also notes that SME inputs must be properly documented and subject to analysis to ensure their uniformity and veracity with regard to each costing issue. While noting that the Telco has failed to document the forward-looking assumptions used by its SMEs, the OCC states that these omissions are compounded by the fact that the Department and parties have not been presented with any statistical validation of the process. Specifically, the Telco failed to provide evidence of a statistically-valid sample of SMEs polled for each cost increment, the use of statistical analysis to account for and discount statistical outliers and third-party statistical validation of the Telco's methodology. Without validation of this sort, the Telco's costs continue to be subject to doubt.

Further, the OCC argues that it is evident that the Telco utilized SME estimates with relatively few data points. Therefore, the OCC recommends rejection of the Telco's SME-based NRCs. According to the OCC, the Telco has failed to properly analyze

SME opinions forcing competitors and the Department to rely on the Company's questionable good faith estimates. Accordingly, the OCC recommends that in future filings, the Telco be required to present statistical evidence of the accuracy of its NRC studies.

Finally, the OCC argues that the 2% fallout rate mandated by the Department is justified. The OCC also disagrees with the Telco's claim that a 2% fallout rate is not achievable by an efficient firm because the Company has not provided any analysis to support its assertion. While noting that the Telco has recognized that the marginal benefit gained by the reduced fallout must exceed the marginal cost of the modifications required to achieve that fallout, the OCC maintains that the Telco has failed to present a cost-benefit analysis to support its claims. Accordingly, the OCC recommends that the Department reject the Telco's claims and adopt the Telco's NRC studies, subject to the 2% fallout rate. OCC Brief, pp. 7-11; OCC Reply Brief, pp. 2-4.

B. AT&T COMMUNICATIONS OF NEW ENGLAND

AT&T Communications of New England (AT&T) argues that the Telco's proposed labor costs in its NRC studies are overstated and fail to take into account prospective gains in productivity. According to AT&T, the Telco seeks to recover in its labor rates not only the amount it currently pays in salary or wages, but its associated expenses, which includes, wage increases, support assets, clerical support, and supervision. AT&T states that in the NRC study, the Company's estimate to recover its costs was purportedly done on a forward looking basis and to the Telco, forward-looking means only that it incorporates future labor cost increases into its costs. Despite the fact that it isolated labor cost increases, the Telco failed to reduce these labor costs to reflect prospective gains in productivity. In the opinion of AT&T, without such a reduction, providing for increased labor costs alone is inappropriate, and has the effect of improperly inflating the Telco's labor costs in the NRC study.

AT&T states that even assuming that labor costs will increase in the next five years, it does not follow that actual NRC costs will increase by the same amount. If the productivity of inputs increases, then the amount of labor required to perform inputs decreases. AT&T asserts that this has the effect of either partly offsetting the cost of a labor increase, or if the productivity increase is great enough, more than offsetting the cost of that increase. AT&T argues that without taking into account expected increases in productivity, including an inflation factor for labor costs, a significant overstatement of true forward-looking costs would result.

AT&T also notes that the approach of offsetting inflation with productivity gains has been followed by the FCC, which revised its price cap procedures for local exchange companies (LEC) to balance increasing cost of inputs against productivity increases. AT&T further notes that in studying the total factor productivity (TFP) growth,[3] the FCC determined that LECs could experience an annual TFP increase of 6%, which would have a substantial effect on offsetting increases in costs. Therefore, AT&T recommends that the Department require the Telco to take the same approach in

[3] TFP is the percentage decrease in inputs needed to produce the same level of output in Year 1 compared to Year 0. AT&T Brief, p. 6.

calculating its labor costs in the NRC study. AT&T also recommends that the Telco be required to include a productivity offset to the recalculated costs after the adjustments proposed by WorldCom, Inc. (WCI) witness Jenkins are made.

While noting that the Telco's NRC study assumes an estimate of increased productivity generally based on the judgment of its experts, AT&T claims that the Company does not quantify productivity in the same way that it quantified the increased labor rates. According to AT&T, without an offsetting adjustment for productivity gains, providing for labor rate increases is not appropriate; and therefore, should not be included in the NRC study. AT&T Brief, pp. 2 and 3; Siwek Testimony, pp. 2 and 3.

Additionally, AT&T argues that the Telco has not made all the necessary adjustments to its NRC study to reflect the Department's Decisions in Dockets Nos. 97-04-10 and 98-09-01. According to AT&T, despite orders directing the Telco to submit new cost studies that reflect a 2% fallout rate applied once to the entire process of ordering and provisioning UNEs, the Company submitted two NRC studies that fail to comply with the Department's order. In the opinion of AT&T, the first study is flagrantly non-compliant and produces non-recurring costs which reflect the Telco's reasonable assessment of prospective system fallout. AT&T states that this "reasonable assessment" sometimes reaches in excess of a seven-fold increase in the mandated fallout rate. AT&T also states that the second study, while purporting to apply the mandated 2% fallout factor, misapplies the Department's order by applying the 2% rate to individual fallout calculations rather than on an end to end process basis. Consequently, because these studies are not compliant with the Department's orders, AT&T suggests that they not be accepted.

AT&T claims that it is not suggesting that no manual intervention will occur related to the processes presented. Manual activity costs, such as a physical wire connection, should be included in appropriate NRC calculations. AT&T notes however, that fallout refers specifically to errors in system flow through processing, which can be avoided by efficiently utilizing existing technology. AT&T contends that because a 2% fallout represents the efficient use of existing technology, the Telco should be required to abide by the Department's order requiring application of a 2% fallout once to each entire UNE ordering and provisioning process. AT&T Brief, pp. 4-6; AT&T Reply Brief, pp. 1-3.

Additionally, AT&T argues that the majority of the Telco's NRCs have been substantially overstated. According to AT&T, the Telco has repeatedly overstated the NRCs of the vast majority of its services as a result of several improper practices, including applying the 2% fallout factor to individual process steps, failing to adjust manual process steps in order to take into account the impact of increased volume in a *forward looking environment*, improperly adding disconnection costs to provisioning costs, improperly using data extrapolation, providing excessive SME activity time estimates, and failing to incorporate projections related to effective quality/efficiency improvements. AT&T cites as examples the Telco's Simple-Process 2 Wire Voice Grade Unbundled Loop services; Complex-Process 2 Wire Voice Grade Unbundled Loop services; 2 Wire Digital ISDN services; DSL 4W (Analog) Capable Loop services; 4-Wire DS1 Digital Grade services; 2-Wire DSL Loop Conditioning; and its Customized Routing services.

Therefore, AT&T recommends that the Department reject the Telco's NRC studies and accept the more accurate and forward looking cost revisions presented by WCI witness Jenkins. AT&T Brief, pp. 6-10.

C. COVAD COMMUNICATIONS COMPANY AND DLSNET COMMUNICATIONS LLC

Covad Communications Company (Covad) and DSLnet Communications, LLC (DSLnet) argue that the Telco should be prohibited from charging to condition loops. In the opinion of Covad/DSLnet, loop conditioning charges of any kind are anticompetitive barriers to entry and are inconsistent with the FCC's pricing rules. According to Covad/DSLnet, the Telco must impose only those conditioning charges that are consistent with total element long run incremental cost (TELRIC). Covad/DSLnet conclude that since the forward looking network design of a TELRIC study does not call for placing bridged tap or load coils on loops, it follows that an incumbent local exchange carriers (ILEC) cannot impose charges on CLECs to remove those devices.

While acknowledging that the FCC has permitted ILECs to levy loop conditioning charges on its competitors, Covad/DSLnet contend that these charges must be consistent with the FCC's pricing rules. Covad/DSLnet maintain that although the FCC has permitted loop condition cost recovery, it does not mean that these charges can be imposed in those circumstances where their imposition violates the FCC's rules. Covad/DSLnet also note that the FCC has indicated that it does not authorize the imposition of loop conditioning charges at all in cases where an ILEC is obligated not to charge for loop conditioning. Therefore, since loops in a TELRIC study would not be encumbered in the first place, any charges to remove encumbering devices would not be based on forward looking pricing principles. As a result, the Telco is obligated not to charge for removing those devices, and the Department should prohibit the Company from imposing loop conditioning charges on CLECs.

Additionally, Covad/DSLnet maintain that permitting the Telco to charge CLECs to condition loops would create a windfall for the Company. The law requires ILECs to provide loops that are priced according to TELRIC. According to Covad/DSLnet if the Telco is permitted to impose a non-recurring charge for removing the devices, the Telco would double recover its loop costs. Such an outcome in the opinion of Covad/DSLnet is not only prohibited by the FCC's rules, it is also patently offensive to the pro-competitive goals of the Telecommunications Act of 1996 (Telcom Act). Covad/DSLnet Brief, pp. 5-7; Stacy Testimony, pp. 11-14.

In the event the Telco is permitted to impose loop conditioning charges, Covad/DSLnet suggest that the Company should, at a minimum, be prohibited from imposing charges to condition loops that are less than 18,000 feet in length. Covad/DSLnet claim that the FCC has recognized that encumbering devices serve no purpose on loops of 18,000 feet or less, and therefore, have no place in a TELRIC study. While acknowledging that the Telco has proposed not charging for removing load coils or repeaters from loops that are less than 12,000 feet, Covad/DSLnet argue that there is no reason why the logic of the Telco's position should not extend to loops that are between 12,000 feet and 18,000 feet in length. Covad/DSLnet also argue that since loops that are shorter than 18,000 feet are forward looking only if completely free of encumbrances, the Telco is obligated not to charge to condition such loops. Furthermore, to the extent that such loops must be conditioned, they maintain that CLECs should not be required to pay for correcting deficiencies in the Telco's embedded network; rather, the Company should be responsible for the costs to remove these devices. According to Covad/DSLnet, the Telco has not provided the Department with any evidence from which it can permit loop conditioning charges on loops that are less than 18,000 feet. Covad/DSLnet assert that should the Telco not be prohibited from charging CLECs to condition all loops, the Company should be prohibited from charging CLECs to condition loops that are less than 18,000 feet in length. Covad/DSLnet Brief, pp. 7-9.

In addition, Covad/DSLnet contend that the Department should reject the Telco's proposed loop conditioning charges because they are unsupported backward looking and overstated. Covad/DSLnet maintain that the Telco provided little or no information about its cost study methodology, including any attempt to increase the mechanization of its systems or to improve its processes during this proceeding. Covad/DSLnet concur with the other parties in that the Telco did not provide adequate documentation concerning the instructions that it provided its cost analysts when they were requested to provide time estimates, nor could the Company explain the role of its management when in reviewing these estimates. Covad/DSLnet further note that the Telco did not provide any documentation supporting its assumptions that the Company will need: (1) to remove, on average, three load coils and two bridge taps per loop, or two bridge taps and one repeater per loop; (2) additional time to travel to each load coil, repeater, or bridge taps, because it assumes that the load coils or repeaters are not located near the bridge taps; and (3) to reinstall bridge taps on more than 4 out of 10 loops.

Furthermore, Covad/DSLnet note that the costs the Company proposes to recover from the CLECs to provide a particular UNE may be more than the costs it currently incurs to provide that UNE. In the opinion of Covad/DSLnet, this admission is disturbing and serves as a warning that the Telco's proposed rates are inadequately supported. Covad/DSLnet suggest that the Department not take the Telco at its word that its costs were developed based on a forward looking network, particularly since some of those costs could be greater than what the Company currently incurs. Rather, the Department should require the Telco to prove that its costs are forward looking and reject those costs which are not supported. Covad/DSLnet Brief, pp. 9-11.

Moreover, Covad/DSLnet contend that the Telco ignored the FCC's forward looking pricing principles in its cost study. According to Covad/DSLnet, the most glaring omission is the Telco's failure to consider the possibility of conditioning more than one loop per field dispatch. As a result, the Telco seeks to charge a CLEC for the entire cost of accessing plant records, traveling to the loop, setting up a work protection area, accessing the cable, closing down the work area, traveling back to the office, and updating its records for every single loop that it conditions.

Covad/DSLnet describe this approach as absurd and argue that assuming that a technician may condition only the particular loop for which a work order has been issued is a perfect example of how the Telco's network construct is backward looking. Covad/DSLnet also argue that a customer ordering Digital Subscriber Line (DSL) service will be unwilling to wait until the service provider can achieve economies of scale by obtaining additional orders in the same cable or at the same location. Therefore, they recommend that the Department require the Company to develop costs for loop conditioning based on the assumption that at least 25 loops will be conditioned per trip.

Covad/DSLnet also claim as backward looking is the Telco's requirement that CLECs be responsible for the cost of reinstalling bridged taps on loops, based on the assumption that the DSL service will be later terminated on those loops. This proposal, according to Covad/DSLnet appears to be inconsistent with the Telco's own plans to make its DSL service available to 80% of its customers over the next three years and the Company's recurring cost study, which assumes that there are no disturbers on its system. Accordingly, Covad/DSLnet recommend that the Telco not be permitted to include in its loop conditioning rates the cost to reinstall those devices that the conditioning will remove.

An additional example cited by Covad/DSLnet is the Telco's failure to accept any process improvements or mechanization for conditioning loops. According to Covad/DSLnet, this is illustrated by comparing the Telco's approach to developing costs for loop qualification with its own approach to developing costs. With loop qualification (which involves similar tasks as the initial record review for loop conditioning), the Telco mechanizes the entire process and applies a task occurrence rate of only 5%. Covad/DSLnet claim that the Telco has refused to adopt a similar approach with loop conditioning. Instead, the Telco's cost study assumes that the Company will charge three hours for a manual search of the records, even though many of the same tasks are mechanized in the similar loop qualification process.

Covad/DSLnet also claim that the Telco's study does not reflect any attempt to capture and retain the loop qualification information when conditioning the same loop. Covad/DSLnet further claim that the Telco's backward looking approach to loop conditioning is again illustrated by the Company's insistence that updating its records must be performed by three separate employees, at three separate times, and on three separate systems. Although the Telco may be unable to combine these tasks because some activities must occur after a loop is conditioned, Covad/DSLnet suggest the Company's processes require improvement.

Moreover, Covad/DSLnet indicate that the Telco's refusal to project its costs on a forward looking basis is evident when comparing its cost estimate to condition one loop with its cost estimate to condition another loop at the same location but in a different cable. Covad/DSLnet argue that the Telco's estimate is grossly overstated, especially in light of the Company's concession that the time it takes to physically remove the load coil from a second loop is "de minimis." In the opinion of Covad/DSLnet, there is no evidence to support the validity of such a labor estimate.

Accordingly, Covad/DSLnet conclude that the Telco's cost proposal for loop conditioning does not assume the least cost approach required by TELRIC. In the opinion of Covad/DSLnet, a forward looking cost study would not consider conditioning one loop per visit or reinstalling bridged tap on loops that have been conditioned. Likewise, the Telco's time estimates to condition loops are outdated. Covad/DSLnet recommend that the Department provide the Telco with an incentive to develop a forward looking network design for purposes of its loop conditioning cost studies. In the opinion of Covad/DSLnet, rejecting the Telco's proposed rates and adopting a rate that embraces a wide range of process improvements and mechanization would provide that incentive. Covad/DSLnet Brief, pp. 11-17; Stacy Testimony, pp. 20-23.

In the event that the Department permits the Telco to impose loop conditioning charges on CLECs, Covad/DSLnet recommend that these charges be assessed on a recurring basis. According to Covad/DSLnet, the FCC's rules permit states, where reasonable, to require ILECs to recover non-recurring costs through recurring charges over a reasonable period of time. While loop conditioning can be construed as a non-recurring activity (i.e., performed only once per loop), Covad/DSLnet argue that it does not necessarily follow that loop conditioning costs must be imposed on CLECs as a non-recurring charge.

Covad/DSLnet note that a recurring monthly charge would be more appropriate because it would reduce the Telco's opportunity to use loop conditioning charges as a barrier to entry. Monthly recurring charges would also force the Telco to recover the cost of correcting the deficiencies in its network over the economic life of the correction. In the opinion of Covad/DSLnet, through the use of recurring rates, the Department can ensure that the burden of loop conditioning falls fairly upon all purchasers and users of the facility.

In light of the Telco's argument that it would be unfair to the ILECs should a customer cancel service before it has fully recovered its loop conditioning cost, Covad/DSLnet maintain that the alternative is worse. That is, by allowing the Telco to assess a significant up-front charge for loop conditioning, the CLECs that initially use the conditioned loop are forced to pay the entire cost of conditioning. If after six months the customer cancels service altogether, or cancels service for another provider, then the CLEC has shouldered the entire cost of conditioning the loop and the Telco has reaped the benefits of having a conditioned loop that can support advanced services. Covad/DSLnet further note that should the customer switch to another advanced service, the Telco will continue to receive a recurring charge for the loop. Thus, Covad/DSLnet conclude that it is less onerous to force the Telco to face the risk of cancellation than to force the original ordering CLEC to do so. By imposing a recurring rate, the Telco would be deprived of a monthly payment only if the customer cancels the service and decides not to renew the service or selects a different provider of the service.

Therefore, to the extent the Department allows the Telco to charge for loop conditioning, Covad/DSLnet recommend that the Department order the Company to allocate loop conditioning charges on a recurring (pro-rated) basis to avoid one service provider paying the entire cost for conditioning of a loop that it may not use in the future. Covad/DSLnet also are of the opinion that recurring rates would reduce the opportunity for the Telco to use loop conditioning charges as a barrier to entry and would allocate the risk of service cancellation equally between the Telco and its competitors. Covad/DSLnet Brief, pp. 17-19; Stacy Testimony, pp. 24 and 28.

D. THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY

The Telco states that its proposed NRC studies address the Department's criticisms outlined in the January 5, 2000 Decision in Docket No. 98-09-01. According to the Telco, its studies have incorporated all known, planned process improvements, and all cost data and inputs used in the studies are forward-looking. The Telco did not assume a fully mechanized order process for UNEs, but anticipated the deployment of known, commercially available and financially prudent process improvements and planned moves toward more efficient operations. The use of such inputs produces cost results that are forward-looking and reflect costs that the Telco expects to experience during the study period. The Telco states that assuming a level of mechanization that does not reflect the use of known and prudent process improvements will improperly distort the Company's costs and rates. In the opinion of the Telco, UNE prices based on flawed costing information will not promote the Department's goal of vibrant, broad-based competition in Connecticut.

The Telco also modified its NRC studies to reflect a one-time 2% fallout rate in the ordering and provisioning of UNEs. The Telco believes however, that based on current experience and its knowledge, the 2% fallout rate does not reflect what it will experience during the study period. The Telco states that its parallel studies apply fallout rates that it believes will more accurately reflect its experience during the study period based on its current experience and known process improvements and efficiencies reasonably anticipated. The Telco claims that the use of unrealistically low fallout rates will distort the Telco's rates and defeat the Department's overall objectives.

Therefore, the Telco concludes that having addressed the Department's criticisms of previous cost studies, the UNE NRC studies comply with Department directives. The Telco asserts that the Department has a reasonable foundation on which to accept its studies and on which to base its approval of the proposed rates the Telco has filed in the instant docket. Telco Brief, pp. 7-9.

While several parties to the proceeding have criticized the Company's cost studies, the Telco argues that these criticisms are unsupported and unsupportable, and do not provide a basis upon which the Department could rely to set rates for UNEs. Specifically, the Telco argues that the OCC, WCI and DSLnet criticisms have not provided the Department with any basis upon which to vary or substitute the Company's proposed costs, or any supporting evidence/calculations that support adjustments to the cost studies. In the opinion of the Telco, it would be ill advised to reject the Company's cost studies and analysis in favor of any of the adjustments proposed by the parties. Telco Brief, pp. 9-11.

Additionally, the Telco argues that its cost studies incorporate all known process improvements. The Telco maintains that known process improvements have been incorporated into its studies through the specific instructions to the SMEs, and the inclusion of all planned software upgrades. The inclusion of those improvements has manifested itself in a number of ways from actual forward-looking time reductions to the inclusion of new interfaces (Service Order Analysis and Control System (SOAC) to the Trunk Integrated Record Keeping System (TIRKS)).

The Telco contends that the effects of all known automation have also been applied to the costs developed in this proceeding. According to the Telco, these process improvements are readily known to the SMEs because they are responsible to ensure that all provisioning, have been optimized, automated and are constantly monitored to maintain and improve efficiency. The Telco contends that it has taken the steps to ensure that this knowledge was included in the studies, by directly instructing the SMEs to include those forward-looking process improvements, and by requesting those improvements on the input sheets completed by the SMEs. Telco Brief, pp. 12-15.

Moreover, the Telco disagrees with WCI's assertion that the Company's systems employ inefficient technology. According to the Telco, provisioning UNEs necessarily involves multiple complex systems interfacing with one another. While WCI witness Jenkins' testified that the Company should employ more efficient systems, the Telco argues that he offered no evidence to support his claims. The Telco further notes Mr. Jenkins could not demonstrate one commercially available system that meets industry standards, nor could he provide the efficiencies he deems lacking in the Telco's OSS. Therefore, the Telco concludes that Mr. Jenkins has based his position on a system that is still in the test stage and may represent an improvement only to one step in the process, even though it may not be capable of handling the Telco's service volumes. The Telco reiterates that it has based its studies on known process improvements that it expects to deploy over the study period. In the opinion of the Telco, the only credible evidence in the record is that the Company's OSS are state-of-the-art systems providing all of the functionality currently available, and some that will not be available until year end. Telco Brief, pp. 15-18.

Regarding the Covad/DSLnet criticisms, the Telco maintains that loop conditioning is a data CLEC-required modification of the copper network and not a process that is central to the deployment of a forward looking network. The Telco argues that it is entitled to recover its costs of conditioning from the CLEC and cites to the FCC's orders and directives in FCC 99-279, Memorandum Opinion and Order, Applications of Ameritech Corp., Transferor, and SBC Communication Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214, and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules, released October 8, 1999 (Merger Conditions), in which the FCC required that loop conditioning costs be recovered from carriers requesting the conditioning.

Relative to the Covad/DSLnet proposal that the Telco's costs for conditioning loops be recovered through the recurring rates for loops, the Company claims that Covad/DSLnet is unfamiliar with the Department's pricing directives for unbundled network elements, nor how the Telco has been ordered to recover its non-recurring costs. The Telco also asserts that the Covad/DSLnet proposal would inappropriately shift the risk of cost recovery from the cost-causer to the Company in violation of both the FCC and Department precedent that the cost-causer bear the costs. The Telco concludes that proposals such as those proposed Covad/DSLnet which insulate the cost-causer and shifts the risk of market entry to the Company be rejected. The Telco also concludes that the conditioning costs are reflected in the NRC studies where, as one-time charges, they belong. In the opinion of the Telco, these conditioning costs are not double counted because they are only reflected in the NRC studies. Telco Brief, pp. 18-25.

Regarding the Covad/DSLnet request for multiple loop conditioning, the Telco argues that it is both impractical and inefficient. The Telco states that removal of a load coil, bridge taps or repeater occurs in response to a data CLEC request for a conditioned line. According to the Telco, the request is reviewed by an engineer to determine what conditioning is needed on the individual line, and a technician is dispatched. The engineer does not engage in a full facility planning exercise. Instead, the Telco attempts to provision a conditioned loop for the CLEC and the end user as quickly as possible in a "production" mode. The Telco notes that although it would not require the technician a great deal of time to condition additional lines, the technician would not know which lines would need to be conditioned in the future. The Telco also states that conditioning multiple lines would only make sense in those cases when none of the conditioned lines will serve voice customers.

Additionally, the Telco argues that Covad/DSLnet fail to account for the expense in reconnecting bridge taps and load coils where they are required. The conditioning of loops on a work order basis is the only effective and efficient method of provisioning conditioned loops to the CLECs. The Telco states that at best, their assumptions are unsupported and appear to be uniformly false. In the opinion of the Telco, there is no evidence that the Telco's network will be devoted solely to broadband. Telco Brief, pp. 25-27.

Finally, the Telco asserts that in contrast to the 2% fallout factor ordered by the Department, its fallout rates contained in the cost studies reflect its actual experiences and realistic, forward-looking expectations. In order to technically achieve the 2% fallout rate, the Telco contends that the Company would be required to expend enormous sums of money to make significant additional investment in systems upgrades. The Telco notes that the parties were unable to specify where those upgrades should be made. Accordingly, the Telco presumes that it is unrealistic and contrary to acceptable business practices for an efficient firm to maintain such low fallout rates from mechanized processes where the marginal benefit of increased flow-through is grossly outweighed by the significant cost of the systems' upgrades and maintenance required to maintain such a high degree of mechanization. The Telco therefore contends that its current operations are efficient, and the planned future process improvements will increase that efficiency.

Additionally, the Telco maintains that a fundamental characteristic of its UNE NRC studies is their forward-looking nature. The Telco argues that near complete mechanization is not assumed because such an assumption would produce unrealistic results and would not conform to industry known and planned incremental process improvements. The Telco also argues that the level of efficiency, measured by the *incidence of fallout or probability of occurrence* in the studies, reflects what the Company actually experiences and expects to experience when implementing its mechanized systems. According to the Telco, the studies generally rely on input from the SMEs who are intimately familiar with the technical requirements of UNE provisioning.

The Telco asserts that it strives to strike the proper balance between mechanized flow-through and the manual intervention required to provision UNEs. However, the availability of a mechanized process does not translate into achieving a cost efficient process. The Telco also asserts that it has included all planned process improvements in its studies, but it cannot guarantee that a substantial investment in equipment and hiring of new personnel will improve its mechanized systems to the point that a 2% fallout rate could be achieved. Such costs are not included in the Telco's studies. The Telco concludes that a 2% fallout rate in the Company's NRC studies would result in an under-estimation of its forward-looking costs; and therefore, requests that the Department reject continued application of the 2% fallout factor in favor of applying the Company's forward-looking fallout percentages. Telco Brief, pp. 27-30.

E. RHYTHMS LINKS INC.

Rhythms Links Inc. (Rhythms) recommends that the Department reject the Telco's proposed loop conditioning charges as inconsistent with the TELRIC methodology.

Rhythms disagrees with the Telco's claim that a series of FCC orders grant the Company the authority to charge for loop conditioning whenever impediments must be removed at a CLEC's request and the Company's requirement that the requesting carrier bear the cost of removal. Rhythms also disagrees that the Department must accept the Telco's proposed loop conditioning charges without evaluating the real cause of these charges or deciding whether the costing methodology used is consistent with TELRIC methodology. According to Rhythms, the FCC in its Decision in CC Docket 99-238, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, Released November 5, 1999 (UNE Remand Order), specifically cautioned state commissions about the adverse impacts that inflated loop conditioning charges could have on the development of a competitive market for DSL services.

Rhythms believes that there are a number of reasons why the Department should reject the Telco's plan to assess CLECs for loop conditioning as a non-recurring charge. First, loop conditioning charges do not exist in a true forward looking network and therefore, directly conflict with TELRIC costing principles. According to Rhythms, a forward looking network would be engineered to support full data services, voice services, and advanced telecommunication services like DSL. Since there would be little or no need to place bridged tap, load coils, or repeaters in such a network design, there would be no costs incurred by the Telco to remove them. Rhythms states that the Telco is trying to recover all of the costs associated with retrofitting its antiquated network. Rhythms also questions how the FCC's forward looking costing principles can be served if the Telco is allowed to charge extra for its loop conditioning costs simply because that cost function exists in its embedded network.

Additionally, Rhythms argues against loop conditioning charges because they would force carriers to pay twice for access to a DSL capable loop. Rhythms claims that most ILECs do not charge their own retail DSL customers for loop conditioning, so the Telco should not be permitted to "double recover" its conditioning costs by charging its wholesale customer to retrofit the Company's network.

Rhythms further asserts that treating the entire loop conditioning costs as a non-recurring charge to be paid in advance unfairly imposes the total burden of these costs upon the initial DSL provider and its customer. In the opinion of Rhythms, a conditioned loop will accommodate a digital signal indefinitely. Furthermore, loop conditioning charges are also not customer specific investments like most other non-recurring charges. Consequently, under the Telco's approach, other carriers could benefit from the initial investment made by Rhythms without having to bear any of the expense.

Moreover, Rhythms notes the FCC's recognition that loop conditioning is not normally required when loops are less than 18,000 feet in length because there is no need to place devices that inhibit DSL service on such loops. Rhythms claims that most ILECs do not charge CLECs for the removal of devices on loops under 18,000 feet. Rhythms notes that while the FCC indicated that a charge may be imposed by the ILEC for conditioning loops when these devices exist on its network, Rhythms contends that the inconsistency of this suggestion with TELRIC costing principles is clear. Rhythms Brief, pp. 2-6.

Rhythms also concurs with Covad/DSLnet that the Telco's cost recovery for loop conditioning should be limited to a recurring charge. Rhythms suggests that should the Department permit the Telco to recover its actual costs for loop conditioning, it would be more appropriate to require these expenses be paid as part of a recurring rate for DSL capable loops, rather than as a non-recurring charge. In support of this suggestion, Rhythms argues that CLECs should not be required to pay the entire loop conditioning cost up front, because the Telco will receive that portion of its network upgraded at the CLECs expense and another CLEC may be able to use the same loop to provide DSL service to Rhythms' customer later on without cost, should that customer migrate to another provider.

Rhythms claims that it is not aware of any FCC rulings which specifically require the Department to compensate an ILEC for its conditioning costs through a non-recurring charge. However the FCC has recognized that state commissions have substantial latitude with respect to cost recovery. An additional benefit that would result from requiring the Telco to use a recurring charge to recapture its loop conditioning costs is that this pricing approach fulfills the Department's obligation to reduce competitive barriers to entry by DSL providers under the UNE Remand Order. According to Rhythms, the FCC specifically deferred to the states the policy question of encouraging competition, eliminating barriers to entry, and fairly compensating ILECs for their costs, rather than mandating the same treatment for these charges in every state. In the opinion of Rhythms, recurring charges would create an incentive for the Telco to resell its DSL capable loops to other CLECs, to promote advanced technological services, and to encourage efficient development of its network. Rhythms *Brief, pp. 6-8.*

Additionally, Rhythms recommends that the Department reduce the Telco's loop conditioning charge to reflect the cost savings available from conditioning multiple loops. Rhythms states that the Telco's cost studies and testimony make it clear that the Company assumed for purposes of ratemaking that no conditioning of multiple lines will occur, even if it makes economic and common sense to do so. Therefore, Rhythms urges the Department to prevent the Telco from implementing loop conditioning in such an inefficient and costly manner. If the Company intends to wait until it receives an individual order from a DSL provider for each loop required to provide DSL service, Rhythms claims that Connecticut consumers will suffer delays in gaining access to an advanced telecommunications network. While there may be circumstances where only a single loop should be conditioned to avoid degrading service to an existing voice customer, Rhythms argues that in many other circumstances hundreds of lines could be done at once without degrading voice services.

Accordingly, Rhythms concludes that the Telco proposes to improve its overall network architecture in an inefficient manner by processing orders for DSL loops on a piecemeal basis. Instead of allowing the Telco to codify these inefficiencies in its tariff, Rhythms recommends that the Department mandate that the Telco base its rates on a projection of conditioning 25 loops at a time. Under appropriate circumstances, the Telco could still proceed to condition lines one at a time, but Rhythms' is of the opinion that its proposed approach would at least ensure that the Telco has an incentive to consolidate orders and improve its antiquated network through a comprehensive plan rather than on a piecemeal basis.

Lastly, Rhythms recommends that the Department reduce the Telco's loop conditioning charges. Rhythms states that it is not aware of any proposed loop conditioning charges which approach the rates proposed by the Telco in Connecticut. Consequently, there is a significant risk that the Telco's proposed charges will create an incentive for DSL providers to concentrate their roll-outs in other states, thereby denying the benefits of this new technology to local customers and their providers. Rhythms Brief, pp. 10-12.

F. WorldCom, Inc.

WCI suggests that the Department find that the Telco has again failed to comply with the Department's cost study directives in Docket Nos. 97-04-10 and 98-09-01. Specifically, WCI notes that the Telco's NRCs are overstated because they rely on flawed assumptions by SMEs, failed to take into account certain efficiencies and the task times for activities associated with these assumptions are substantially overstated. WCI also states that the Telco cannot verify that the time estimates provided by its SMEs are improvements over current times or the time estimates for the Company's previous NRC cost study, nor has the Telco included anywhere in its cost study a description of the forward-looking improvements assumed by its SMEs. Additionally, WCI maintains that although the Telco provided an increased level of documentation, certain activities lack adequate support for the appropriateness of the cost item proposed by the Company. Relative to the fallout rate, WCI notes that while the Telco complains that the fallout rate ordered by the Department is "unrealistic," the principles underlying the fallout factor approach have been accepted in other jurisdictions. Finally, while acknowledging the Telco claims that its cost study is forward-looking, WCI argues that there is much in the record to counter those claims, including its inclusion of charges for restoring bridge taps. WCI contends that the Telco's future network consists of more fiber and increased utilization of advanced technologies, such as DSL that must be considered. WCI argues that it cannot be forward-looking to assume, much less charge for, restoration of bridge taps in the next generation network that the Telco is currently planning. Therefore, WCI recommends that the 50% rate reduction in the Telco's UNE non-recurring charges ordered by the Department in the January 5, 2000 Decision in Docket No. 98-09-01 should continue. In addition, WCI urges the Department to reject the Telco's "compliant" cost study and to adopt the analysis proffered by its witness Earle Jenkins. WCI Brief, pp. 6 and 7; Jenkins Testimony, pp. 3 and 4.

WCI maintains that the Telco's NRC cost study is not forward looking. WCI cites to the DSLnet witness Stacy's challenge of the Telco's assertion that load coils, repeaters and bridge taps are necessary for voice service and argues that it is just as inconsistent to uncondition a loop by restoring bridge taps, given the demands of a next generation network that anticipates greater use of fiber and increased utilization of advanced technologies. While the FCC has stated that ILECs can recover the costs of conditioning loops, WCI asserts that the FCC did not suggest that the incumbent should be permitted to impose such costs over and over again for the same loop by restoring the encumbrances at the first opportunity.

WCI also maintains that given the pace of technology, the Telco's assumption can be deemed forward-looking. WCI states it is noteworthy that while the Telco suggests that it may have mechanized loop qualification absent an FCC order, it also concedes that it mechanized the process primarily because the FCC required that it be done. Therefore, WCI urges the Department to require the Telco to further incorporate mechanization and processing improvements in its cost study. Finally, WCI argues that the Telco has ignored the forward-looking impact of increased volume and failed to recognize that increased activity in the competitive marketplace will change the financial benefits of manual processing and offset the costs of installing mechanized systems. WCI Brief, pp. 7-9; WCI Reply Brief, pp. 4 and 5.

Additionally, WCI claims that the Telco's cost study suffers from flawed assumptions and inadequate documentation. In the opinion of WCI, a forward-looking analysis demands that the Telco incorporate known, planned process improvements. While the Telco insists that to identify these process improvements would add cost, time and resources to its cost study effort, WCI contends that the Company has a different standard for cost studies and did not consider the cost, time and resources as obstacles to the preparation of a non-compliant second NRC cost study. WCI also notes that the assumptions relied on by the Telco have no point of reference. According to WCI, the Company has not sought to compare SBC's best practices with the forward-looking assumptions in the cost study, nor has it made any effort to determine the change between current task times and the task times assumed in the study. Without such comparisons, there is no basis for concluding that the Company is operating in a more efficient, forward-looking manner. WCI notes that in some cases, the Company concedes that the assumptions are based on best-guess estimates. WCI states that the SMEs assumptions are self-validated and while such an approach may be cost-effective, it has a significant potential for inaccuracy, is inherently biased and cannot be deemed a reliable means of validating an assessment.

WCI further notes that although the Telco provided parties with vast amounts of documentation in this proceeding, the Company failed to recognize the value of quality over quantity. Therefore, certain activities lack adequate documentation to support the appropriateness of the cost item. WCI also notes that the Telco relies on time and motion studies to support its cost study assumptions, yet the Telco witness could provide no substantive details about how these studies were conducted. WCI Brief, pp. 9 and 10.

Moreover, WCI argues that the Telco did not comply with the Department's directive to reflect a one-time 2% fallout rate. While the Telco filed two non-recurring studies in this proceeding, WCI concludes that both studies are not in compliance with the January 5, 2000 Decision in Docket No. 98-09-01. In the opinion of WCI, the Telco's failure to properly calculate the 2% fallout factor and activity times, and its use of flawed data results in NRCs that are overstated. WCI contends that the costs associated with the certain services are significantly overstated due to manual process steps that were not adjusted to reflect an increased volume in a forward-looking environment, disconnection costs that were inappropriately added to provisioning costs, improper use of data extrapolation, high SME activity time estimates and the Telco's failure to incorporate projections related to effective quality/efficiency improvements.

WCI also contends that the Telco has improperly combined connection and disconnection costs for certain services in violation of the Department's TSLRIC Decision. Therefore, WCI requests that the Department again order the Telco to separate these costs and to calculate these separate costs based on the adjustment assumptions it proposed for 4 wire services.

Finally, WCI claims that the Telco's loop conditioning charges are unjustified and excessive. WCI states that should the Department permit the Telco to impose such charges, it must require the Company to revise the charges significantly. WCI also states that the Telco's proposed loop conditioning charges are by any measure excessive and if approved, would constitute an impermissible barrier to market entry and/or expansion by competitive carriers. WCI claims the Telco's proposed rates are more than those currently approved for Bell Atlantic New York for the same services. In the opinion of WCI, the rates for loop conditioning are overstated because the Telco has ignored efficiencies associated with conditioning multiple loops and overstated some of the times associated with the tasks for loop conditioning. WCI notes DSLnet's testimony which demonstrated that the costs associated with conditioning a second loop are less than 2% of the costs the Company claims are incurred in conditioning the first loop. According to WCI, the record demonstrates the Telco's failure to justify the task times for certain activities involved in loop conditioning. Accordingly, WCI requests that the Department adopt the alternate rates proposed by DSLnet, which constitute a more reasonable estimate of loop conditioning costs. WCI Brief, pp. 10-14; WCI Reply Brief, pp. 3 and 4; Jenkins Testimony, pp. 5-7.

IV. DEPARTMENT ANALYSIS

Non-recurring costs are those costs that the Telco incurs on a one-time basis to perform tasks such as service activation and installation charges. The cost studies submitted by the Telco in this proceeding are structured to be consistent with the Telco's Recurring and Joint and Common Cost Studies reviewed in Docket No. 00-01-02 (e.g., the annual cost factors are applied to both recurring and non-recurring rates). The interrelationship between these UNE cost studies stresses the importance of obtaining appropriate and accurate cost calculations, assures that the cost of

Unbundled Network Elements serve to enhance the participation of CLECs in the Connecticut telecommunications market, and allows the Telco to recover its costs for provisioning UNEs. As such, all corrections and changes made in Docket No. 00-01-02 that impact the Telco's cost studies in this proceeding will also be required (e.g., common and joint cost study changes, and annual cost factors). In addition, corrections noted by the Telco during the proceeding should also be made. See for example, the Telco's response to TE-2 and Late Filed Exhibit No. 1.

In the January 5, 2000 Decision in Docket No. 98-09-01, the Department ordered the Telco to apply a 2% fallout factor to each mechanized work activity in its UNE non-recurring cost studies. The Department finds that the Telco has complied with these directives and submitted a complete set of non-recurring UNE cost studies with the mandated 2% fallout factor. The Telco argues that a 2% fallout is not achievable without committing additional resources. The Department disagrees. As the Telco's UNE NRC study analysis indicates, by setting this standard, process improvements have been and will continue to be made by the Company. The Department is convinced that a 2% fallout rate is achievable in the timeframe that these studies encompass. The Department also finds that the application of a 2% fallout factor is still appropriate and should remain throughout the years covered by the cost study.

WCI has criticized the Telco's application of the 2% fallout factor because application of this factor to each mechanized work activity creates a compounding effect, thereby inflating the costs associated with each UNE. Therefore, WCI suggests that the Department require the Telco to apply a one-time 2% fallout factor to the entire cost study. The Department refers WCI to its January 28, 2000 letter to the Telco wherein the Department fully explained and clarified the application of this factor.[4] In that letter, the Department noted its intent that the Telco apply the 2% fallout factor only to those activities completed by the Company on a mechanized basis. The 2% fallout factor was never intended to be applied to manual activities. The Department also noted that its expectation was that over time the Telco would mechanize the majority of those activities that are currently completed on a manual basis, at which time the 2% fallout factor would apply. In the opinion of the Department, no party has presented any evidence which warrants a change nor have they been able to demonstrate that it is reasonable to apply the factor in the manner suggested by WCI. The Department reiterates its belief that the 2% fallout factor should only be applied to mechanized activities. Nevertheless, WCI makes one suggestion that the Department finds appropriate. That is, when fallout is less than 2%, the Telco should be required to use the lower value. Jenkins Testimony, p. 9. The Department agrees. Therefore, the Telco will be required to impose a 2% fallout factor unless the mechanized process produces a lower fallout. Accordingly, the Department finds that the manner in which the Telco has applied its 2% fallout factor to mechanized work activities is reasonable.

Covad/DSLnet and Rhythms (collectively, the data CLECs) criticized the Telco's proposed loop-conditioning charges. According to Covad/DSLnet, the Telco could increase efficiency by conditioning multiple loops at the same time. The Department does not believe that the record of this proceeding supports such an allegation. In the

[4] See the Department's January 28, 2000 Letter to the Southern New England Telephone Company, Keith Krom, Docket No. 98-09-01, p. 1.

opinion of the Department, the record indicates that efficiency would decrease, because customers using Telco service for only voice transmission would experience a decline in the quality of service offered. The Department agrees that the Telco cannot condition a loop for digital service if a customer has not requested it unless it is part of a general upgrading of service. Loop conditioning is necessary because data speeds can be substantially increased over a line without repeaters, load coils and bridge taps. The Department would accept the data CLECs' proposal if it can be guaranteed that multiple loop conditioning would be conducted only on those lines that did not serve any voice communications. In the opinion of the Department, no such guarantee can be made. Therefore, as the data CLECs are the Telco's customers in this instance, the onus is on them to identify the appropriate loops that should be conditioned. The Department also believes that the Telco has justified its procedures for conditioning loops, as well as the costs associated with conditioning a loop. Accordingly, the data CLECs' request for multiple loop conditioning is hereby denied.

Covad/DSLnet also request that the Department change the way conditioning charges are imposed. That is, loop conditioning charges should be changed from a non-recurring charge to a recurring monthly rate, thereby preventing the Telco from collecting the up-front costs it incurred to condition loops for CLECs. The Department disagrees. The Department is of the opinion that the CLEC requesting loop-conditioning is offering enhanced service to its customers over that loop and therefore, the CLEC is the cost causer; not the Telco. Therefore, the Telco should be afforded the opportunity to recover its costs as they are incurred.

Covad/DSLnet also propose that the Department remove the costs for reconditioning a loop from the Telco's non-recurring charges. The Telco has included the cost of reconditioning a loop in the non-recurring charges because reconditioning may have to be conducted at some time, but not always. The Department agrees and will not permit the Telco to charge for re-conditioning a loop because it is not always necessary. In those cases where the Telco loses a customer and then wins that customer back, and conditioning is necessary, the Telco should be responsible for those costs. Therefore, the Department finds that the Telco's loop-conditioning costs are reasonable as proposed; however, the Company's rates must be revised to reflect the removal of re-conditioning costs.

The Department notes AT&T's recommendation that the Telco incorporate TFP into its non-recurring UNE cost studies. Labor rates and input costs increase incrementally annually due to inflation and increased technology costs. Under AT&T's suggestion, labor productivity will increase annually, so that the increased efficiency realized by laborers will offset some if not all of the increased costs of labor and technology. The Department concurs with AT&T that increased efficiency will be realized in the future; however, the Telco's accounting of these gains in its cost models is reasonable.

Finally, the Department notes that the Telco utilized sample data in portions of its cost study, such as identifying the non-recurring cost when CLEC service orders are submitted electronically. The Department also notes that the Telco has no experience receiving orders electronically, but in order to comply with a forward-looking methodology, the Company processed approximately 5,400 sample orders.

Makarewicz Testimony, p. 11. Moreover, the Telco witness testified that the information supplied by its SMEs provide objective, forward-looking estimates for activities identified in the study. The Department believes that the Telco's SMEs are knowledgeable of planned process improvements that will capture forward-looking activity times and expected improvements in efficiency. In addition, the Telco incorporated forward-looking technology and equipment in its studies. The non-recurring cost studies submitted by Telco in this Docket use current data, comply with previous Department directives, are well-documented and perfectly replicable. As such, requiring the Telco to apply an arbitrary TFP annual increase would double-count for the efficiencies and gains already included in the Company's cost studies. Hypothetical, broad-based approaches as suggested by AT&T, do not result in reasonable adjustments to specific costs. When the FCC used productivity factors it applied them to a total operation on an embedded basis. The idea was to reflect productivity on an embedded rate base. That is not the case here. The Telco's costs are forward looking incremental costs that reflect a forward looking network and forward looking processes. As such, both labor and capital productivity are accurately reflected in the results.

V. FINDINGS OF FACT

1. Non-recurring costs are those costs that the Telco incurs on a one-time basis to perform tasks such as service activation and installation charges.

2. The Telco's cost studies are structured to be consistent with its Recurring and Joint and Common Cost Studies reviewed in Docket No. 00-01-02.

3. The January 5, 2000 Decision in Docket No. 98-09-01 required the Telco to apply a 2% fallout factor to each mechanized work activity in its UNE non-recurring cost studies.

4. The Telco submitted a complete set of non-recurring UNE cost studies with the mandated 2% fallout factor.

5. A 2% fallout rate is achievable in the timeframe that these studies encompass.

6. Loop reconditioning is not always necessary.

7. Labor rates and input costs increase incrementally annually due to inflation and increased technology costs.

8. The Telco's SMEs are knowledgeable of planned process improvements that will capture forward-looking activity times and expected improvements in efficiency.

9. The Telco has incorporated forward-looking technology and equipment in its cost studies.

10. The Telco's non-recurring cost studies use current data, comply with previous Department directives, are well-documented and perfectly replicable.

VI. CONCLUSION AND ORDER

A. Conclusion

The Telco has provided a fully documented and reproducible UNE Non-recurring cost study. All parties to this proceeding have had an opportunity to review all of the details and propose changes. The Telco's UNE NRC studies follow the Department's past directives, state and federal law, are forward looking and examine the most efficient UNE incremental costs. Lastly, the Telco's studies are well documented and may be replicated. Accordingly, the Department hereby approves the Telco's UNE NRC studies subject to the order below.

B. Order

For the following Orders, please submit an original and 12 copies of the requested material identified by Docket Number, Title and Order Number to the Executive Secretary.

1. No later than July 17, 2000, the Telco shall file revised UNE Non-recurring Cost studies and revised non-recurring rates and charges that are consistent with Section IV above.

DOCKET NO. 00-03-19 DPUC REVIEW OF THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY'S STUDIES OF UNBUNDLED NETWORK ELEMENTS NON-RECURRING CHARGES

This Decision is adopted by the following Commissioners:

Jack R. Goldberg

Linda Kelly Arnold

Glenn Arthur

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

Date

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GOBIERNO DE PUERTO RICO
JUNTA REGLAMENTADORA DE TELECOMUNICACIONES
DE PUERTO RICO

TELTRUST COMMUNICATIONS SERVICES, INC. a/k/a TELTRUST y/o TCS	**Caso Núm. JRT-99-CER-0009** **Re: Solicitud Para Operar en el Servicio de Telecomunicaciones**

MOCION EN RESPUESTA A LA ORDEN ADMINISTRATIVA SOBRE CERTIFCACIÓN CONDICIONADA

A LA HONORABLE JUNTA:

Teltrust Communications Services, Inc. a/k/a Teltrust y/o TCS ("Teltrust"), representada por los abogados que suscriben, muy respetuosamente expone y solicita:

1. La presente moción, se presenta en seguimiento a lo manifestado por Teltrust en su Moción en Respuesta a la Orden de la Junta Para Mostrar Causa con fecha del 10 de abril de 2000 (Caso Núm. JRT-1999-OMC-0010, en adelante "la Moción Anterior") y en cumplimiento de la Orden Administrativa Sobre Certificación Condicionada ("La Orden") de la Junta Reglamentadora de Telecomunicaciones de Puerto Rico ("La Junta"), de fecha 7 de abril de 2000, notificada el 14 de abril de 2000.

2. De conformidad con la Moción Anterior de. 10 abril de 2000, Teltrust se comprometió a presentar sus estados financieros auditados y certificados correspondientes al año 1999 tan pronto como estos estuvieran disponibles. En ese momento, Teltrust anticipó que los estados financieros podrían estar listos el 1 de Junio de 2000.

3. En la Orden del 7 de abril de 2000, la Junta concedió a Teltrust una certificación condicionada para actuar como una empresa de telecomunicaciones en Puerto Rico. Dicha orden impuso dos condiciones a Teltrust:

(a) Informar a la Junta dentro de un término de diez (10) días de anticipación a la fecha de inicio de operaciones o de seis (6) meses después de la notificación de la Orden sobre las operaciones o el estado de la compañía; y

(b) Presentar ante la Junta un nuevo estado financiero dentro del término de seis (6) meses a partir de la fecha de inicio de sus operaciones.

4. Por vía de la presente Moción, Teltrust manifiesta respetuosamente ante la Junta lo siguiente en cumplimiento de las dos condiciones dispuestas en la Orden:

(a) De conformidad con la Orden, y cumpliendo con su obligación de notificar a la Junta en relación con el inicio de sus operaciones en Puerto Rico, Teltrust reitera ante la Junta que, tal y como lo manifestó en el párrafo 7. de la Moción Anterior y como lo manifestó la Presidenta de Teltrust , señora Doris Granatowski, en su audiencia personal del pasado 7 de marzo de 2000 con la Honorable Presidenta de la Junta, Teltrust efectivamente ha prestado y continua prestando servicios de telecomunicaciones; y

(b) En relación con la obligación de presentar sus Estados Financieros auditados, según lo propuesto por Teltrust en la Moción Anterior y según lo dispuesto por la Orden de la Junta, Teltrust respetuosamente manifiesta que, según le consta a la Junta, está dispuesta a presentar los Estados Financieros para el análisis de la Junta. Teltrust se encuentra imposibilitada de presentar dichos Estados Financieros para el ejercicio correspondiente al año 1999 puesto que dichos Estados Financieros se encuentran actualmente en proceso de auditoría. Por tal razón, Teltrust no ha podido cumplir con la presentación de los Estados Financieros dentro de la fecha proyectada en la Moción Anterior. Sin embargo, Teltrust se compromete ante la Junta a presentar los Estados Financieros ante la Junta lo antes posible, y en ningún caso después del 17 de Octubre de 2000, dentro de los seis (6) meses siguientes a la notificación de la Orden.

POR TODO LO CUAL, la compareciente solicita a esta Honorable Junta que tenga por contestada la Orden del 17 de Abril de 2000 y que tenga por cumplida la condición establecida en la Orden en cuanto a la obligación de notificarle sobre el inicio de sus operaciones. En cuanto a la obligación de presentar sus Estados Financieros, la compareciente solicita la aprobación de la Junta de presentarlos antes del 30 de Octubre de 2000, momento en el cual quedará satisfecha la condición impuesta por la Junta.

RESPETUOSAMENTE SOMETIDO.

En San Juan, Puerto Rico, hoy 22 de junio de 2000.

Respetuosamente Sometido,

TELTRUST COMMUNICATIONS SERVICES, Inc.

Priscilla Anne Whitehead. (Colegiada Núm.:10606)
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7500 (Telephone)
(202) 424-7645 (Facsimile)

Sus Abogados

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